

**FILED**

JUN 06 2007

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY                      DEPUTY CLERK

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

B & A DANE LLC ET AL. D/B/A PRO-CUTS  
AND DANE FAMILY LIMITED  
PARTNERSHIP D/B/A PRO-CUTS,

Defendants.

CIVIL ACTION NO.: W-06-CA-285  
ECF

**CONSENT DECREE**

The parties to this Consent Decree are the Plaintiff, United States Equal Employment Opportunity Commission ("EEOC"), and Defendants, B & A Dane LLC, et al, d/b/a Pro-Cuts and Dane Family Limited Partnership d/b/a Pro-Cuts ("Defendants"). This Consent Decree resolves the allegations raised by the EEOC in the above-referenced Civil Action No. W-06-CV-00285. The EEOC initiated this lawsuit under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991. EEOC's Complaint alleged unlawful employment practices and sought relief on behalf of Lois Graves (formerly known as Lois Hall), who EEOC alleged was adversely affected by such practices. The EEOC alleged that Defendants discriminated against Lois Graves because of her race (Black) by subjecting her to a hostile work environment and reducing her hours because of her race, and the EEOC alleged that as a result of the racial harassment and reduction of hours, the conditions of her employment were made so intolerable that she was forced to resign her position. Defendants denied violating Title VII, Title I, or any other the law, and denied the EEOC and Lois Graves

were entitled to any relief. The EEOC and Defendants wish to settle this action, without the risks, uncertainties and expenses of continued litigation, under the terms set forth in this Consent Decree. By entering into this Consent Decree, Defendants make no admission of liability or wrongdoing and make no admission that their alleged conduct was improper, discriminatory or illegal in any respect.

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. This Court has jurisdiction over the subject matter of this action and the parties, venue is proper, and all administrative prerequisites to the EEOC's filing of this action have been met. The parties stipulate to the Court's jurisdiction.
2. This Consent Decree resolves all issues raised in the EEOC's Complaint. Additionally, this Consent Decree resolves all issues raised in the Charge of Discrimination which Lois Hall filed with the EEOC, Charge no. 310-2006-00699. The EEOC waives further litigation of all issues raised in the above-referenced Complaint and Charge. The EEOC expressly reserves its right, however, to process and litigate any other charges, which may now be pending or may in the future be filed against either or both Defendants.
3. The duration of this Decree shall be forty-two (42) months from the date of its filing with the Court. This Court shall retain jurisdiction of this action during the period of this Decree and may enter such further orders or modifications as may be appropriate. Should any disputes under this Decree remain unresolved after this forty-two (42) month period, the term of the Decree shall be automatically extended, and the Court will retain jurisdiction of this matter to enforce the Consent Decree, until such time as all disputes have been resolved.

4. Defendants agree that, during the term of this Consent Decree, Defendants shall not discriminate against any employee on the basis of race, and they shall not engage in any other act or practice which has the purpose or effect of unlawfully discriminating against any past, present, or future employee or applicant for employment on the basis of race.

5. Defendants agree that within ninety (90) days of the entry of this Consent Decree, their non-discrimination policy meets the following criteria:

- (a) Prohibits discrimination against employees and/or applicants for employment on the basis of race and specifically prohibits any act, policy or practice that has the effect of harassing or intimidating any employee on the basis of race, in violation of Title VII;
- (b) Provides that the complaints of race discrimination can be made either in writing or verbally; and
- (c) Provides for prompt investigation of race discrimination complaints and for prompt action, which is appropriate and effective, to remedy the discrimination.

6. Defendants agree that, during the term of this Consent Decree, Defendants shall, in settlement of this dispute, pay the total sum of Fifty Thousand Dollars (\$50,000.00) as follows: First payment of \$3,571.43 shall be due on or before June 1, 2007. Like payments of \$3,571.43 shall be due on or before September 1, 2007; December 1, 2007; March 1, 2008; June 1, 2008; September 1, 2008; December 1, 2008; March 1, 2009; June 1, 2009; September 1, 2009; December 1, 2009; March 1, 2010; and June 1, 2010. Defendants agree the final payment of \$3,571.41 shall be due on or before September 1, 2010.

Defendants agree to mail the payments directly to Lois Graves in care of Claude Giles, Esq., P.O. Box 609, Waco, Texas 76703, unless Mr. Giles provides

reasonable advance written notification to Defendants, through their attorney, of a different address for Lois Graves in which case Defendants agree to mail payments subsequent to the notification to the different address for Lois Graves. Defendants agree to forward a copy of each settlement check and any accompanying transmittal documents to the EEOC to the attention of Robert B. Harwin, Associate Regional Attorney, 5410 Fredericksburg Road, Suite 200, San Antonio, Texas 78229.

7. Defendants agree that if Bob Dane or Defendants' District Manager is contacted for a written and/or oral reference pertaining to Lois Graves, they shall provide a neutral reference, and Defendants agree in such circumstances they shall make no reference to any matters arising under or relating to Ms. Graves' charge of discrimination or the filing of this civil action. This provision shall survive the expiration of this Consent Decree.

8. Defendants agree that within ten (10) business days after entry of this Consent Decree, Defendants shall post copies of the EEOC poster entitled "Equal Employment is the Law" at its facilities in conspicuous locations easily accessible to and commonly frequented by employees. Defendants agree the EEOC posters shall remain posted for the duration of this Consent Decree. Defendants agree to ensure that the EEOC posters are not altered, defaced or covered by any other material. Defendants agree to certify to the EEOC in writing within ten (10) business days after entry of this Consent Decree that the EEOC posters have been properly posted.

9. Defendants agree that within one hundred eighty (180) days of the date of entry of this Consent Decree, Defendants shall provide training concerning the prohibitions on racial discrimination and harassment to Defendants' managers and/or

supervisors. Defendants agree to send EEOC a copy of the training materials at least ten (10) days before any training session occurs. The Commission reserves the right to approve of the training.

10. During the term of this Consent Decree, the EEOC shall have the right to ensure compliance with the terms of this Decree.

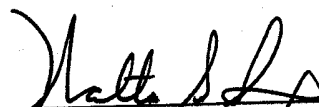
11. The terms of this Decree shall be binding upon the EEOC and Defendants, their agents, officers, employees, servants, successors, and assigns, as to the issues resolved herein.

12. Defendants will bear all cost associated with implementing the provisions of this Consent Decree.

13. Except as provided herein, the parties to this Decree shall bear their own costs and attorney's fees. Furthermore, the parties agree that pursuant to § 706(k) of Title VII, 42 U.S.C. § 2000e-5(k), there is no "prevailing party" in this action or proceeding.

SO ORDERED.

Signed this 6 day of May, 2007.

  
\_\_\_\_\_  
WALTER S. SMITH, JR.  
CHIEF UNITED STATES DISTRICT JUDGE

Respectfully submitted,

RONALD S. COOPER  
General Counsel

JAMES L. LEE  
Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

/s/ Robert A. Canino w/permission  
by Edward Juarez

---

ROBERT A. CANINO  
Regional Attorney  
Oklahoma Bar No. 011782

/s/ Robert B. Harwin with permission  
by Edward Juarez

---

ROBERT B. HARWIN  
Associate Regional Attorney  
District of Columbia Bar No. 076083

/s/ Judith G. Taylor with permission  
by Edward Juarez

---

JUDITH G. TAYLOR  
Supervisory Trial Attorney  
Texas State Bar No. 19708300  
Judith.Taylor@eeoc.gov

/s/ Rory Divin with permission  
by Edward Juarez

---

RORY DIVIN  
Attorney at Law  
Texas Bar No. 05902800  
[rdivin@mcdonaldlaw.com](mailto:rdivin@mcdonaldlaw.com)

MCDONALD SANDERS,  
A Profession Corporation  
Carter-Burgess Plaza, Suite 1300  
Fort Worth, Texas 76102  
Telephone: (817) 336-8651  
Facsimile: (817) 334-0271

ATTORNEY FOR DEFENDANTS

/s/ Edward Juarez

---

EDWARD JUAREZ  
Trial Attorney  
Texas Bar No. 24014498  
[Eduardo.juarez@eeoc.gov](mailto:Eduardo.juarez@eeoc.gov)

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
San Antonio Field Office  
5410 Fredericksburg Road, Suite 200  
San Antonio, Texas 78229-3555  
Telephone: (210) 281-7613  
Facsimile: (210) 281-281-7669  
ATTORNEYS FOR PLAINTIFF